

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**TAX ABATEMENT AGREEMENT BETWEEN
FORT BEND COUNTY DRAINAGE DISTRICT AND
DOLLAR TREE DISTRIBUTION, INC.**

This Tax Abatement Agreement, hereinafter referred to as “Agreement,” is executed by and between **FORT BEND COUNTY DRAINAGE DISTRICT, TEXAS**, hereinafter referred to as “District,” acting by and through its Commissioners’ Court and Dollar Tree Distribution Inc. hereinafter referred to as “Owner” of the Real Property, Eligible Personal Property, and Improvements located within the Fort Bend County Reinvestment Zone No. 22.

1. **Authorization:**

- a. This Agreement is authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the TEXAS TAX CODE as it exists on the effective date of this Agreement, and;
- b. The Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones created by Fort Bend District, Texas, were approved by the District’s Commissioners Court on February 14, 2017. District has determined that the request for Tax Abatement presented by Owner conforms to the criteria established in the Guidelines for Tax Abatement or that a deviation is hereby determined to be for good cause and therefore will be allowed
- c. No official of District has an interest in the property subject to this Agreement.

2. **Definitions:**

As used in this Agreement, the following terms shall have the meanings set forth below:

- a. The “Certified Appraised Value or Value” means the value certified as of January 1 of each year of this Agreement regarding the property within Fort Bend County Reinvestment Zone No. 22 by the FBCAD.
- b. “Certificate of Occupancy” means a certificate of occupancy issued by the City for the Improvements (or a temporary certificate of occupancy issued by the City under which Owner is permitted to, and does, open for business in the Improvements).
- c. “Real Property” means the approximate 139.78 acre tract of land described in Exhibit "B" attached hereto and incorporated herein for all purposes, and all improvements currently located thereon, which tract of land is located within the Reinvestment Zone 22.
- d. “Improvements” means a new building to be used as a distribution and warehousing facility located in the Reinvestment Zone containing at least 1,200,000 square feet of floor space, and the interior improvements to such distribution and warehousing

building and any sidewalks, parking lots, outdoor lighting, landscaping and other improvements to serve the building, all as generally depicted in Exhibit C, attached to and incorporated into this Agreement by reference.

- e. "Effective Date" shall mean the date upon which this Agreement has been executed by both District and Owner and the conditions set forth in Sections 12.a and 12.b below have been satisfied.
- f. "Abatement" means the full or partial exemption from ad valorem taxes of certain property in Fort Bend County Reinvestment Zone No. 22 designated for economic development purposes.
- g. "Eligible Property" means equipment, machinery, and inventory.
- h. "Ineligible Property" means real property, existing improvements, real property used primarily to provide retail sales or services to the public, real property used for residential purposes, tangible personal property classified as furnishings, tangible personal property located in the Reinvestment Zone prior to the execution date of the tax abatement agreement, real property with a productive life of less than 10 years, or any other property for which abatement is not allowed by state law.
- i. "Owner" means **DOLLAR TREE DISTRIBUTION INC.**
- j. "County" means the County of Fort Bend, Texas.
- k. "FBCAD" means Fort Bend Central Appraisal District.

3. Subject Property:

- a. Fort Bend County Reinvestment Zone No. 22 is an area located in Fort Bend County, Texas, being legally described in Exhibit A attached hereto and incorporated herein for all purposes.
- b. The FBCAD has established the base year values for the subject property as of January 1, 2019.

4. Responsibility of Owner:

In consideration of receiving the tax abatement granted herein, Owner: represent and agree: That construction of the Improvements will commence without delay.

- a. Owner must cause Completion of Construction (as hereinafter defined) of the Improvements by no later than December 31, 2020 (the "Completion Deadline"). Nothing in this Agreement shall obligate Owner to construct the Improvements but said action is a condition precedent to tax abatement pursuant to this Agreement. Owner shall have additional time to complete the Improvements as may be required in the event of delays caused by force majeure (as defined in Section 11 below) and the Completion Deadline shall be correspondingly extended. "Completion of Construction" shall be deemed to have occurred on the date of issuance of the Certificate of Occupancy.
- b. Owner must make a minimum capital investment (i) in the Improvements in an amount not less than \$88,000,000, (ii) \$40,600,000 in equipment, including mobile equipment, and

machinery, and (iii) \$10,000,000 in inventory as certified by Owner in a certificate in the form attached hereto as Exhibit D within sixty (60) days after Completion of Construction of the Improvements.

- b. Owner must provide the District’s Tax Assessor/Collector with a copy of the Certificate of Occupancy for the Improvements on or before the Completion Deadline. Owner’s failure to present a copy of the Certificate of Occupancy to District by December 31, 2020 shall not constitute a default but may result in a forfeiture of the tax abatement of tax year 2021.
- c. That the Combined Certified Appraised Value of the Improvements and Eligible Property on January 1, 2021, must not be less than \$103,000,000.
- d. That the Combined Certified Appraised Value of the Improvements and Eligible Property on January 1, 2022, must not be less than \$111,000,000.
- e. That the Combined Certified Appraisal Value on each and every January 1 thereafter, Years 3 (2023) through 10 (2030) of the abatement term, must not be less than \$124,000,000. Owner may from time to time during the term of this Agreement install additional improvements, and modify, remove or replace Improvements and place additional Eligible Property within the Reinvestment Zone No. 22 as Owner may determine in their discretion.
- f. Failure to meet the requirements of the Combined Certified Appraised Value or the minimum employee requirements described herein shall not be a default but will invalidate the tax abatement for the year this requirement was not satisfied.
- g. Owner agrees to meet the following minimum employee requirements:

Tax Year	Total Number of Employees Required
On the Opening Date	100
1st anniversary of the Opening Date	200
2nd anniversary of Opening Date through the remainder of the Term	300 each year

- h. Owner shall annually furnish District with only those payroll records allowed by law and necessary for District to confirm Owner’s compliance with this Agreement (e.g. number of employees is appropriate; payroll

- dollars, taxes, benefits, and bonuses are not appropriate).
- i. That Owner will participate in the continuing economic development process in Fort Bend County by becoming a Trustee Member (\$6,000/yr. dues) of the Greater Fort Bend Economic Development Council for a minimum period coinciding with the term of this Agreement.
 - j. OWNER SHALL BE RESPONSIBLE FOR NOTIFYING THE FBCAD OF THE ABATEMENT, INCLUDING FILING WITH THE FBCAD ANY APPLICATION OR OTHER FORMS NECESSARY TO QUALIFY FOR OR RECEIVE THE ABATEMENT GRANTED.
 - k. OWNER SHALL BE RESPONSIBLE FOR REQUESTING AN ASSIGNMENT OF THIS AGREEMENT IN THE EVENT THE REAL PROPERTY THE SUBJECT OF THIS AGREEMENT IS SOLD, TRANSFERRED OR ASSIGNED. EXCEPT AS OTHERWISE PROVIDED HEREIN, ANY ASSIGNMENT IS NOT EFFECTIVE UNTIL APPROVED IN WRITING BY DISTRICT.
 - l. That Owner has, as of the effective date of this Agreement, the financial resources to implement the above representations.
 - m. Owner shall ensure that all non-abated ad valorem taxes assessed by District on any property owned by Owner in Fort Bend District are paid prior to delinquency, excluding payment of any taxes which are subject to a properly filed protest and/or contest. Delinquent taxes for any District Property is a default of Owner's obligations and will be grounds for termination regardless of whether the delinquent property is subject to an abatement.

5. Value and Term of Abatement:

- a. This Agreement shall be effective on the date executed by District and shall terminate on December 31, 2030. In no event shall this Agreement extend beyond December 31, 2030.
- b. In each year that this Agreement is in effect, the amount of abatement shall be an amount equal to the percentage indicated below of the taxes assessed upon the Improvements and Eligible Property.
- c. Subject to the limitations imposed by law and conditioned upon the representations outlined in Section 4 herein above, there shall be granted and allowed hereunder a property tax abatement for the following years and in the following amounts on the value of the Improvements and Eligible Property:

Tax Year	Percentage Abatement
2021	80%
2022	80%
2023	80%
2024	80%
2025	80%
2026	80%
2027	80%
2028	80%
2029	80%

2030	80%
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- d. The abatement granted shall not apply to the value of the Real Property, increases in the value of the Real Property, Ineligible Property.
 - e. All Eligible Property shall be placed and/or installed in accordance with applicable laws, ordinances, rules or regulations in effect at the time such Eligible Property is placed and/or installed.
 - f. The FBCAD's determination of values shall be used to determine the value of the property subject to this Agreement. If Owner protests the FBCAD's valuation of the property, the valuation placed on the property after the protest is resolved under State law shall be used.
 - g. On or before September 1 of each year of this Agreement, Owner shall certify in writing to the Fort Bend County Tax Assessor/Collector their compliance with each term of this Agreement in the form of the annual report attached hereto as Exhibit E.
6. **Taxability:** During the period that this tax abatement is effective, taxes shall be payable by the Owner as follows:
- a. The value of Real Property, Ineligible Property and Eligible Property, including inventory, shall be taxable at their full value but payable in accordance with the abatement described in Section 5 and
 - b. The value of existing improvements, if any, and existing Eligible Property shall be determined in the base year by the FBCAD.
7. **Event of Default:**
- a. District may declare Owner in default of this Agreement if: (1) Owner fails to comply with any term of this Agreement or (2) Owner allows District ad valorem taxes on any property owned in Fort Bend District to become delinquent, even if the delinquent taxes are for a property not subject to an abatement provided, however, Owner retains the right to timely and properly protest and contest any such taxes and so long as Owner is timely and properly protesting or contesting the same it shall not constitute a default under this Agreement or (3) Owner ceases operations on the Real Property for a continuous period of one hundred eighty (180) days before the expiration of the term of the Abatement without the prior written consent of the District, except that in the event of (i) a temporary shutdown of the facility, with assurance of the resumption of operations, for the purpose of facility modification, expansion, improvement, retooling or similar purpose, (ii) the facility is being actively marketed, the District shall not unreasonably withhold consent to a reasonable extension to such period to permit the sale of the facility to another operator, (iii) the closure of the facility pending settlement of insurance, casualty or condemnation claims or (iv) the closure of the facility due to inadequate or unacceptable raw water supply shall not constitute a vacating of or a cessation of operations on the Real Property under this Section 7(a)(3). Such exceptions are subject to further extension for force majeure as defined in Section 11 herein.
 - b. District shall notify Owner of any default in writing specifying the default.

- Owner shall have ninety (90) days from the date of the notice to cure any default. If Owner fails to cure the default within ninety (90) days from receipt of notice, District may terminate this Agreement by written notice.
- c. If this Agreement is terminated by District, as District's sole and exclusive remedy, Owner (as applicable) agrees that they are liable for and will pay to District within thirty (30) days of the termination of this Agreement:
 - i. The amount of all taxes which had been abated during the Term of this Agreement prior to such termination; and
 - ii. Interest on the abated amount at the rate provided for in the Texas Tax Code for delinquent taxes.
 - iii. Penalties on the amount abated in the year of default, at the rate provided for in the Texas Tax Code for delinquent taxes.
 - d. District shall have a lien against the Real Property, Ineligible Property, Inventory, and Eligible Property for the taxes and interest owed because of the recapture of taxes under this paragraph during the time period beginning on the date such payment obligation accrues and continuing until the date is paid.
 - e. District acknowledges and agrees that notwithstanding anything to the contrary in this Agreement that Section 7 herein sets forth the sole and exclusive remedies of the District in the event of default by Company under this Agreement and all other remedies are expressly waived and released. Without limiting the foregoing, the District and Company further agree that the District is entitled to the damages set forth in Section 7 (c), but in no event shall either party be liable to the other for any punitive, incidental, consequential, indirect or special damages.
 - f. This paragraph is required by Chapter 2264, TEXAS GOVERNMENT CODE and governs over any conflicting provisions of this Agreement. Owner is prohibited from knowingly employing undocumented workers as that term is defined in Section 2264.001, TEXAS GOVERNMENT CODE. If Owner is convicted of a violation under 8 U.S.C. Section 1324a(f), the conviction shall be considered default of this Agreement, from which no cure provisions shall apply. In such event, District shall provide written notice to Owner of the default and this Agreement shall automatically terminate on the 30th day after the date of the notice of default from District to Owner. In the event of termination under this paragraph, Owner shall repay to District the amount of all property taxes abated under this Agreement, plus interest on the abated amount at the rate provided for in the TEXAS TAX CODE for delinquent taxes

8. Administration and Inspection

- a. This Agreement shall be administered on behalf of the Fort Bend County Tax Assessor/Collector or her designee. Owner shall allow employees or other representatives of District who have been designated by the Tax Assessor/Collector to have access to the Real Property (during normal business hours) during the term of the Agreement. All regular inspections shall be made only after two (2) business days prior notice and will be conducted in such a manner as not to unreasonably interfere with the

construction or operation of the facility. A representative of Owner or may accompany the inspector. District shall cause each of its employees and representatives who conduct such inspections to abide by all of Owner's security, safety and operational rules (as the same may be amended from time to time), copies of which have been made available to District.

- b. Upon completion of the placement and/or installation of the Eligible Property, District shall annually evaluate the Improvements and any Eligible Property to ensure compliance with the terms and provisions of this Agreement and shall report potential defaults to the Owner.
- c. The Chief Appraiser of the FBCAD shall annually determine (1) the taxable value under the terms of this abatement of the Improvements, and any Eligible Property located on the Real Property and (2) the full taxable value without abatement of the Real Property, the Improvements, and any Eligible Property located on the Real Property. The Chief Appraiser shall record both abatement taxable value and full taxable value in the appraisal records. The full taxable value figure listed in the appraisal records shall be used to compute the amount of abated taxes that is terminated in a manner that results in recapture of abated taxes.
- d. Owner shall furnish the Chief Appraiser annually such information as provided for under Chapter 22 of the Texas Tax Code, including payroll records, as may be necessary for the administration of the this Agreement. Such information, including payroll records, shall also be provided annually to the County Tax Assessor/Collector in preparation of its annual evaluation for compliance with the terms and provisions of this Agreement.

9. Assignment

- a. Owner shall have the right to assign this Agreement to any hereinafter defined Owner Affiliate to which title to the Real Property is conveyed, with a minimum of sixty (60) days prior written notice by Owner to District of such assignment but without District's consent. The term "Owner Affiliate" shall mean (i) Owner's parent-corporation, affiliates, subsidiaries, or related companies; (ii) a successor company related to Owner by merger, consolidation, non-bankruptcy reorganization, or government action; or (iii) a purchaser of substantially all of Owner's assets in the State of Texas.
- b. Owner may not assign this Agreement, except as provided above, without prior written consent of District. No assignment shall be effective or approved if District has declared a default hereunder which has not been cured or the assignee is delinquent in the payment of any ad valorem taxes owed to District. Approval shall not be unreasonably withheld.
- c. Any and all assignments shall contain the same terms and conditions as set out in this Agreement and shall be granted for the remaining term of the original Agreement only.
- d. Owner shall provide notice to District within ninety (90) days of any sale or assignment of the Real Property subject to this Agreement.

10. Indemnity

It is understood and agreed between the parties that Owner, in performing

obligations hereunder, is acting independently, and District assumes no responsibilities or liabilities in connection therewith to third parties. **OWNER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS DISTRICT AND THE FBCAD FROM ANY AND ALL CLAIMS, SUITS, AND CAUSES OF ACTION BROUGHT BY THIRD PARTIES OF ANY NATURE WHATSOEVER ARISING OUT OF OWNER'S BREACH OF ITS OBLIGATIONS HEREUNDER EXCEPT THAT THE INDEMNITY SHALL NOT APPLY TO THAT PORTION OF RESPONSIBILITIES AND LIABILITIES RESULTING FROM THE FAULT OR NEGLIGENCE OF DISTRICT OR TAXING UNITS, THEIR RESPECTIVE OFFICERS, AGENTS OR EMPLOYEES. OWNER'S INDEMNIFICATION OBLIGATIONS INCLUDE THE PAYMENT OF REASONABLE ATTORNEYS FEES AND EXPENSES INCURRED IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, AND CAUSES OF ACTION WHICH ARE NOT DUE TO DISTRICT'S, THE DISTRICT'S OR THEIR REPRESENTATIVES' INTENTIONAL CONDUCT OR NEGLIGENCE. OWNER SHALL BE RESPONSIBLE FOR ALL FEES INCURRED BY DISTRICT IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION SO LONG AS DEFENSE COUNSEL AND COURSES OF ACTION ARE DETERMINED SOLELY BY OWNER (AS APPLICABLE). NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO PROHIBIT DISTRICT FROM INCURRING REPRESENTATION OF ANY SUCH CLAIM, SUIT OR CAUSE OF ACTION AND OWNER (APPLICABLE) SHALL NOT BE RESPONSIBLE FOR ANY SUCH COSTS AND OR FEES SO INCURRED.**

11. Force Majeure:

If by reason of force majeure, Owner is unable to perform any obligation of this Agreement, it shall give notice of the force majeure to District in writing within thirty (30) calendar days after Owner first becomes aware or should have become aware of the occurrence relied upon. By doing so, the obligation of Owner, to the extent and for the period of time affected by the force majeure, shall be suspended. Owner shall endeavor to remove or overcome the inability with all reasonable effort. For purposes of this provision, "force majeure" shall include, but not be limited to acts of God, landslides, lightning, earthquakes, hurricanes, storms, floods, or other natural occurrences; strikes, lockouts, insurrections, riots, wars or other civil or industrial disturbances; orders of any kind of the federal or state government or of any civil or military authority; explosions, fires, breakage or accidents to machinery, lines, or equipment, or the failure or lack of capacity of the wastewater system or water supply system; or any other cause not reasonably within the control of the Owner.

12. **District Approval and Acquisition of Real Property Requirements**
- a. This Agreement is conditioned entirely upon the approval of the District's Board by the affirmative vote of a majority of the members present at a duly scheduled meeting of the Board.
 - b. The obligations of District and Owner are conditioned entirely upon the closing of the acquisition of the Land by Owner. If Owner has not acquired the Real Property by May 31, 2019 for any reason, this Agreement shall terminate and be of no further force or effect
13. **Compliance with State and Local Regulations:**
This Agreement shall not be construed to alter or affect the obligations of Owner to comply with any city ordinance or federal or state law or regulation.
14. **Changes in Laws/Vested Rights:**
The tax abatement provided in this Agreement is conditioned upon and subject to any changes in the state tax laws during the term of this Agreement, but only the extent required by law to be enforceable and after giving Owner all vesting, non-conforming and/or "grandfather" rights, contained in and applicable to this Agreement and allowed by law.
15. **Miscellaneous:**
- a. This Agreement and the rights and obligations of each party shall be construed and enforced under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas.
 - b. In the event of one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
 - c. The waiver by either party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any subsequent breach.
 - d. Any amendments of this Agreement shall be of no effect unless in writing and signed by both parties hereto.
16. **Notices**
- a. Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been hand delivered or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and certified, return receipt requested, in a United States Post Office, addressed to District and Owner at the mailing address as hereinafter set out. If mailed, any notice of communication shall be deemed to be

received three (3) business days after the date of deposit in the United States Mail.

- b. Unless otherwise provided in this Agreement, all notices shall be delivered to Owner or District at the following addresses:

To the **Tax Assessor/Collector:** The Honorable Patsy Schultz
Fort Bend County Tax Assessor-Collector
1317 Eugene Heimann Circle
Richmond, Texas 77469

To **District:** Fort Bend County Drainage District
401 Jackson
Richmond, Texas 77469
Attention: County Judge

Copy to: Fort Bend County Attorney
401 Jackson
Richmond, Texas 77469

To **Owner:** Dollar Tree Distribution Inc
Attention:
Gary Maxwell
Chief Supply Chain Officer
500 Volvo Parkway
Chesapeake, Virginia 23320

- c. Any party may designate a different address by giving the other parties ten (10) days prior written notice thereof. If Owner fails to give notice of an Owner change of address to the District, the District may continue to deliver any such notices to the Owner's last notice address of record with the District pursuant to this Agreement and such written notice by District to the Owner's last notice address of record delivered in accordance with Section 16 a. above shall continue to be deemed valid notice to Owner until such time as Owner provides written notice to District of a change of notice address for Owner.

17. Entire Agreement

This Agreement contains the entire Agreement among the parties and supercedes all other negotiations and agreements, whether written or oral. This Agreement shall inure to the benefit of and be binding upon the parties hereto and each of their respective successors and assigns. Attached hereto are: a) Exhibit A – Fort Bend County Commissioners Court Order designating Reinvestment Zone No. 22; b) Exhibit B - Legal Description of Real Property; c) Exhibit C- Improvements which are made part of this Agreement; d) Exhibit D - Minimum Capital Investment Certification Form, and e) Exhibit E- Annual Report Form.

18. Execution

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by District and Owner as of the dates below stated. All Parties warrant and represent that the individuals executing this agreement on behalf of each have full authority to execute this Agreement and bind each to the same.

“DISTRICT:”

**FORT BEND COUNTY
DRAINAGE DISTRICT, TEXAS**

By: _____
K. P. George, County Judge

Date: _____

ATTEST:

Laura Richard, County Clerk

Date _____

‘OWNER:’

DOLLAR TREE DISTRIBUTION INC

By: _____

Printed Name: Gary Maxwell _____

Title: Chief Supply Officer

Date: _____

ATTEST:

(Print Name)

Date _____